

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

SEMYON GRINBLAT,

Plaintiff,

CASE NO. 1:20-cv-1643-KAM-CLP

v.

SPEEDWAY LLC,

Defendant.

DEFENDANT SPEEDWAY LLC'S ANSWER AND DEFENSES

Defendant Speedway LLC ("Speedway") answers the Second Amended Complaint [ECF No. 19] (the "2AC") by Plaintiff Semyon Grinblat. Except for those allegations specifically admitted herein, Speedway denies the allegations in the 2AC. Speedway specifically denies that it engaged in any unlawful conduct and that Plaintiff suffered any harm entitling him to any of the relief requested in the 2AC.

STATEMENT OF PLAINTIFF'S CLAIMS

1. Speedway admits that Plaintiff brings his claims pursuant to the Americans with Disabilities Act ("ADA"). Speedway denies that it has violated the ADA or its implementing regulations. Speedway further denies that Plaintiff is entitled to the relief sought in the 2AC.

2. Speedway admits that Plaintiff purports to bring this action on behalf of himself and similarly situated individuals. Speedway further admits that Plaintiff asserts causes of action under the ADA, the New York State Civil Rights Law, the New York State Human Rights Law, and the New York City Human Rights Law.

Speedway denies that Plaintiff is an adequate class representative or that this case is appropriate for class treatment. Speedway further denies that it has violated any applicable provisions of the laws pursuant to which Plaintiff asserts his claims.

3. Speedway admits that this Court may issue a declaratory judgment as to the existence or nonexistence of a legal right under the ADA. The remaining allegations within Paragraph 3 state Plaintiff's legal conclusions and thus do not require a response. In the event these allegations are construed to require a response from Speedway, Speedway denies same.

4. Paragraph 4 states Plaintiff's legal conclusions and thus does not require a response from Speedway. In the event this paragraph is construed to require a response from Speedway, Speedway denies same.

5. Paragraph 5 states Plaintiff's legal conclusions and thus does not require a response from Speedway. In the event this paragraph is construed to require a response from Speedway, Speedway denies same.

6. Speedway admits that venue is proper in this Court based on the allegations in the 2AC. Speedway denies that it has engaged in any acts constituting violations of the ADA, the New York State Human Rights Law, the New York State Civil Rights Law, or the New York City Human Rights Law.

PARTIES

7. Speedway is without knowledge sufficient to form a belief as to the truth of the allegations set forth in Paragraph 7 and therefore denies same.

8. Speedway is without knowledge sufficient to form a belief as to the truth of the allegations set forth in Paragraph 8 and therefore denies same.

9. Speedway admits that it owns and operates the subject Speedway facility located at 951 Bay Street, Staten Island, New York 10305. The remaining allegations within Paragraph 9 state Plaintiff's legal conclusions and thus do not require a response from Speedway. In the event these allegations are construed to require a response from Speedway, Speedway denies same.

10. Admitted.

11. Admitted.

12. Denied.

13. Denied.

14. Denied as stated. Speedway admits that it is a for-profit limited liability company formed under the laws of Delaware. Speedway denies the remaining allegations set forth in Paragraph 14.

15. Admitted.

16. Speedway admits that it has designated CT Corporation System as its registered agent with the New York Secretary of State. Speedway further admits that CT Corporation System's address is 28 Liberty Street, New York, New York, 10005. Speedway is without knowledge sufficient to form a belief as to the truth of the remaining allegations set forth in Paragraph 16 and therefore denies same.

17. Speedway is without knowledge sufficient to form a belief as to the truth of the remaining allegations set forth in Paragraph 17 and therefore denies same.

18. Speedway admits that the subject facility is considered a place of public accommodation pursuant to the ADA and its implementing regulations. The remaining allegations within Paragraph 18 state Plaintiff's legal conclusions and thus do not require a response from Speedway. In the event these allegations are construed to require a response from Speedway, Speedway denies same

19. Paragraph 19 states Plaintiff's legal conclusions and thus does not require a response from Speedway. In the event this paragraph is construed to require a response from Speedway, Speedway denies same.

20. Paragraph 20 states Plaintiff's legal conclusions and thus does not require a response from Speedway. In the event this paragraph is construed to require a response from Speedway, Speedway denies that Plaintiff has any right, privilege, or ability to further amend his Complaint without leave of this Court.

21. Denied.

22. Denied.

23. Paragraph 23 states Plaintiff's legal conclusions and thus does not require a response from Speedway. In the event this paragraph is construed to require a response from Speedway, Speedway denies same.

24. Paragraph 24 states Plaintiff's legal conclusions and thus does not require a response from Speedway. In the event this paragraph is construed to require a response from Speedway, Speedway denies same.

CLASS ACTION

25. Speedway admits only that Plaintiff seeks declaratory and injunctive relief pursuant to the ADA, the New York State Human Rights Law, the New York State Civil Rights Law, and the New York City Civil Rights Law on behalf of himself and as a representative of a purported class of similarly situated individuals. Speedway denies that Plaintiff is entitled to the relief sought in the 2AC himself or as a representative of any class.

26. Paragraph 26 and its subparts states Plaintiff's legal conclusions and thus does not require a response from Speedway. In the event this paragraph is construed to require a response from Speedway, Speedway denies same.

27. Paragraph 27 states Plaintiff's legal conclusions and thus does not require a response from Speedway. In the event this paragraph is construed to require a response from Speedway, Speedway denies same.

28. Paragraph states Plaintiff's legal conclusions and thus does not require a response from Speedway. In the event this paragraph is construed to require a response from Speedway, Speedway denies same.

29. Paragraph 29 states Plaintiff's legal conclusions and thus does not require a response from Speedway. In the event this paragraph is construed to require a response from Speedway, Speedway denies same.

30. Paragraph 30 states Plaintiff's legal conclusions and thus does not require a response from Speedway. In the event this paragraph is construed to require a response from Speedway, Speedway denies same.

31. Paragraph 31 states Plaintiff's legal conclusions and thus does not require a response from Speedway. In the event this paragraph is construed to require a response from Speedway, Speedway denies same.

32. Paragraph 32 states Plaintiff's legal conclusions and thus does not require a response from Speedway. In the event this paragraph is construed to require a response from Speedway, Speedway denies same.

33. Paragraph 33 states Plaintiff's legal conclusions and thus does not require a response from Speedway. In the event this paragraph is construed to require a response from Speedway, Speedway denies same.

34. Paragraph 34 states an organizing principle applicable to Plaintiff's allegations in the 2AC and therefore does not require a response from Speedway. In the event this paragraph is construed to require a response from Speedway, Speedway denies same.

STATUTORY SCHEME

35. In response to Paragraph 35, Speedway states that the subject law speaks for itself and therefore no response is required of Speedway. In the event this paragraph is constructed to require a response from Speedway, Speedway denies same.

36. In response to Paragraph 36, Speedway states that the subject law speaks for itself and therefore no response is required of Speedway. In the event this paragraph is constructed to require a response from Speedway, Speedway denies same.

37. In response to Paragraph 37, Speedway states that the subject law speaks for itself and therefore no response is required of Speedway. In the event this paragraph is constructed to require a response from Speedway, Speedway denies same.

38. In response to Paragraph 38, Speedway states that the subject law speaks for itself and therefore no response is required of Speedway. In the event this paragraph is constructed to require a response from Speedway, Speedway denies same.

39. In response to Paragraph 39, Speedway states that the subject law speaks for itself and therefore no response is required of Speedway. In the event this paragraph is constructed to require a response from Speedway, Speedway denies same.

40. Speedway is without knowledge sufficient to form a belief as to the truth of the allegations set forth in Paragraph 40 and therefore denies same.

41. In response to Paragraph 41, Speedway states that the subject laws speaks for themselves and therefore no response is required of Speedway. In the event this paragraph is constructed to require a response from Speedway, Speedway denies same.

42. Paragraph 42 states Plaintiff's legal conclusions and thus does not require a response from Speedway. In the event this paragraph is construed to require a response from Speedway, Speedway denies same.

43. In response to Paragraph 43, Speedway states that the subject law speaks for itself and therefore no response is required of Speedway. In the event this paragraph is constructed to require a response from Speedway, Speedway denies same.

44. Paragraph 44 states Plaintiff's legal conclusions and thus does not require a response from Speedway. In the event this paragraph is construed to require a response from Speedway, Speedway denies same.

45. Paragraph 45 states Plaintiff's legal conclusions and thus does not require a response from Speedway. In the event this paragraph is construed to require a response from Speedway, Speedway denies same.

46. Paragraph 46 states Plaintiff's legal conclusions and thus does not require a response from Speedway. In the event this paragraph is construed to require a response from Speedway, Speedway denies same.

47. Paragraph 47 states Plaintiff's legal conclusions and thus does not require a response from Speedway. In the event this paragraph is construed to require a response from Speedway, Speedway denies same.

48. Paragraph 48 states Plaintiff's legal conclusions and thus does not require a response from Speedway. In the event this paragraph is construed to require a response from Speedway, Speedway denies same.

49. Paragraph 49 states Plaintiff's legal conclusions and thus does not require a response from Speedway. In the event this paragraph is construed to require a response from Speedway, Speedway denies same.

50. Paragraph 50 states Plaintiff's legal conclusions and thus does not require a response from Speedway. In the event this paragraph is construed to require a response from Speedway, Speedway denies same.

51. Denied.

52. Denied.

FACTUAL ALLEGATIONS AND FIRST CAUSE OF ACTION

Plaintiff's Background

53. Speedway is without knowledge sufficient to form a belief as to the truth of the allegations set forth in Paragraph 53 and therefore denies same.

54. Speedway is without knowledge sufficient to form a belief as to the truth of the allegations set forth in Paragraph 54 and therefore denies same.

55. Speedway is without knowledge sufficient to form a belief as to the truth of the allegations set forth in Paragraph 55 and therefore denies same.

56. Speedway is without knowledge sufficient to form a belief as to the truth of the allegations set forth in Paragraph 56 and therefore denies same.

57. Speedway is without knowledge sufficient to form a belief as to the truth of the allegations set forth in Paragraph 57 and therefore denies same.

58. Speedway is without knowledge sufficient to form a belief as to the truth of the allegations set forth in Paragraph 58 and therefore denies same.

59. Speedway is without knowledge sufficient to form a belief as to the truth of the allegations set forth in Paragraph 59 and therefore denies same.

60. Speedway is without knowledge sufficient to form a belief as to the truth of the allegations set forth in Paragraph 60 and therefore denies same.

61. Speedway is without knowledge sufficient to form a belief as to the truth of the allegations set forth in Paragraph 61 and therefore denies same.

62. Speedway is without knowledge sufficient to form a belief as to the truth of the allegations set forth in Paragraph 62 and therefore denies same.

63. Speedway is without knowledge sufficient to form a belief as to the truth of the allegations set forth in Paragraph 63 and therefore denies same.

64. Speedway is without knowledge sufficient to form a belief as to the truth of the allegations set forth in Paragraph 64 and therefore denies same.

65. Speedway is without knowledge sufficient to form a belief as to the truth of the allegations set forth in Paragraph 65 and therefore denies same.

66. Speedway is without knowledge sufficient to form a belief as to the truth of the allegations set forth in Paragraph 66 and therefore denies same.

67. Speedway is without knowledge sufficient to form a belief as to the truth of the allegations set forth in Paragraph 67 and therefore denies same.

68. Speedway is without knowledge sufficient to form a belief as to the truth of the allegations set forth in Paragraph 68 and therefore denies same.

69. Speedway is without knowledge sufficient to form a belief as to the truth of the allegations set forth in Paragraph 69 and therefore denies same.

70. Speedway is without knowledge sufficient to form a belief as to the truth of the allegations set forth in Paragraph 70 and therefore denies same.

71. Speedway is without knowledge sufficient to form a belief as to the truth of the allegations set forth in Paragraph 71 and therefore denies same.

72. Speedway is without knowledge sufficient to form a belief as to the truth of the allegations set forth in Paragraph 72 and therefore denies same.

73. Speedway is without knowledge sufficient to form a belief as to the truth of the allegations set forth in Paragraph 73 and therefore denies same.

74. Speedway is without knowledge sufficient to form a belief as to the truth of the allegations set forth in Paragraph 74 and therefore denies same.

75. Speedway is without knowledge sufficient to form a belief as to the truth of the allegations set forth in Paragraph 75 and therefore denies same.

76. Denied.

77. Denied.

78. Denied.

79. Denied.

Plaintiff Intends to Return to the Subject Facility

80. Speedway is without knowledge sufficient to form a belief as to the truth of the allegations set forth in Paragraph 80 and therefore denies same.

81. Speedway is without knowledge sufficient to form a belief as to the truth of the allegations set forth in Paragraph 81 and therefore denies same.

Violations of Title III in the Subject Facility

82. Speedway is without knowledge sufficient to form a belief as to the truth of the allegations set forth in Paragraph 82 and therefore denies same.

83. Denied.

84. Speedway is without knowledge sufficient to form a belief as to the truth of the allegations set forth in Paragraph 84 and therefore denies same.

85. Denied.

86. Admitted.

87. Denied.

88. Denied.

89. In response to Paragraph 89, Speedway states that the subject law speaks for itself and therefore no response is required of Speedway. In the event this paragraph is constructed to require a response from Speedway, Speedway denies same.

90. Denied.

91. In response to Paragraph 91, Speedway states that the subject law speaks for itself and therefore no response is required of Speedway. In the event this paragraph is constructed to require a response from Speedway, Speedway denies same.

92. Speedway is without knowledge sufficient to form a belief as to the truth of the allegations set forth in Paragraph 92 and therefore denies same.

93. In response to Paragraph 93, Speedway states that the subject law speaks for itself and therefore no response is required of Speedway. In the event this paragraph is constructed to require a response from Speedway, Speedway denies same.

94. Denied.

95. Denied.

96. In response to Paragraph 96, Speedway states that the subject law speaks for itself and therefore no response is required of Speedway. In the event this paragraph is constructed to require a response from Speedway, Speedway denies same.

97. In response to Paragraph 97, Speedway states that the subject law speaks for itself and therefore no response is required of Speedway. In the event this paragraph is constructed to require a response from Speedway, Speedway denies same.

98. Denied.

99. Denied.

100. Denied.

101. Denied.

102. Denied.

103. In response to Paragraph 103, Speedway states that the subject law speaks for itself and therefore no response is required of Speedway. In the event this paragraph is constructed to require a response from Speedway, Speedway denies same.

104. In response to Paragraph 104, Speedway states that the subject law speaks for itself and therefore no response is required of Speedway. In the event this

paragraph is constructed to require a response from Speedway, Speedway denies same.

105. In response to Paragraph 105, Speedway states that the subject law speaks for itself and therefore no response is required of Speedway. In the event this paragraph is constructed to require a response from Speedway, Speedway denies same.

106. Paragraph 106 states Plaintiff's legal conclusions and thus does not require a response from Speedway. In the event this paragraph is construed to require a response from Speedway, Speedway denies same.

107. Denied.

108. Denied.

109. In response to Paragraph 109, Speedway states that the subject law speaks for itself and therefore no response is required of Speedway. In the event this paragraph is constructed to require a response from Speedway, Speedway denies same.

110. Denied.

111. In response to Paragraph 111, Speedway states that the subject law speaks for itself and therefore no response is required of Speedway. In the event this paragraph is constructed to require a response from Speedway, Speedway denies same.

112. Denied.

113. In response to Paragraph 113, Speedway states that the subject law speaks for itself and therefore no response is required of Speedway. In the event this paragraph is constructed to require a response from Speedway, Speedway denies same.

114. Denied.

115. Denied.

116. Paragraph 116 states Plaintiff's legal conclusions and thus does not require a response from Speedway. In the event this paragraph is construed to require a response from Speedway, Speedway denies same.

117. Speedway is without knowledge sufficient to form a belief as to the truth of the allegations set forth in Paragraph 117 and therefore denies same.

118. Denied.

119. Denied.

120. Denied.

121. Paragraph 121 states Plaintiff's legal conclusions and thus does not require a response from Speedway. In the event this paragraph is construed to require a response from Speedway, Speedway denies same.

122. Paragraph 122 states Plaintiff's legal conclusions and thus does not require a response from Speedway. In the event this paragraph is construed to require a response from Speedway, Speedway denies same.

123. Paragraph 123 states Plaintiff's legal conclusions and thus does not require a response from Speedway. In the event this paragraph is construed to require a response from Speedway, Speedway denies same.

124. Paragraph 124 states Plaintiff's legal conclusions and thus does not require a response from Speedway. In the event this paragraph is construed to require a response from Speedway, Speedway denies same.

125. Paragraph 125 states Plaintiff's legal conclusions and thus does not require a response from Speedway. In the event this paragraph is construed to require a response from Speedway, Speedway denies same.

126. Paragraph 126 states Plaintiff's legal conclusions and thus does not require a response from Speedway. In the event this paragraph is construed to require a response from Speedway, Speedway denies same.

127. Denied.

128. Denied.

129. Denied.

130. Denied.

131. Speedway admits this this Court has the authority to grant injunctive relief pursuant to the ADA. Speedway denies that Plaintiff is entitled to any such relief or relief of any type.

132. Paragraph 132 states Plaintiff's legal conclusions and thus does not require a response from Speedway. In the event this paragraph is construed to require a response from Speedway, Speedway denies same.

133. Denied.

SECOND CAUSE OF ACTION
Violations of the New York State Human Rights Law

134. Speedway adopts and incorporates by reference paragraphs 1 through 133 as though fully set forth herein.

135. In response to Paragraph 135, Speedway states that the subject law speaks for itself and therefore no response is required of Speedway. In the event this paragraph is constructed to require a response from Speedway, Speedway denies same.

136. Paragraph 136 states Plaintiff's legal conclusions and thus does not require a response from Speedway. In the event this paragraph is construed to require a response from Speedway, Speedway denies same.

137. Denied.

138. Denied.

139. Denied.

140. Denied.

141. Denied.

142. Denied.

143. Denied.

144. Denied.

145. Denied.

146. Speedway denies that Plaintiff is entitled to compensatory damages or relief of any type.

THIRD CAUSE OF ACTION
Violations of the New York State Civil Rights Laws

147. Speedway adopts and incorporates by reference paragraphs 1 through 146 as though fully set forth herein.

148. Denied.

149. Speedway denies that Plaintiff is entitled to monetary damages or relief of any type.

150. Paragraph 150 states Plaintiff's legal conclusions and thus does not require a response from Speedway. In the event this paragraph is construed to require a response from Speedway, Speedway denies same.

151. Speedway is without knowledge sufficient to form a belief as to the truth of the allegations set forth in Paragraph 151 and therefore denies same.

FOURTH CAUSE OF ACTION
Violations of the New York City Human Rights Law

152. Speedway adopts and incorporates by reference paragraphs 1 through 151 as though fully set forth herein.

153. In response to Paragraph 153, Speedway states that the subject law speaks for itself and therefore no response is required of Speedway. In the event this paragraph is constructed to require a response from Speedway, Speedway denies same.

154. Denied.

155. Denied.

156. Speedway is without knowledge sufficient to form a belief as to the truth of the allegations set forth in Paragraph 156 and therefore denies same.

157. Denied.

158. Denied.

159. Paragraph 159 states Plaintiff's legal conclusions and thus does not require a response from Speedway. In the event this paragraph is construed to require a response from Speedway, Speedway denies same.

160. Speedway is without knowledge sufficient to form a belief as to the truth of the allegations set forth in Paragraph 160 and therefore denies same.

161. Speedway denies that Plaintiff is entitled to compensatory damages or relief of any type.

ATTORNEY'S FEES AND COSTS

162. Paragraph 162 states Plaintiff's legal conclusions and thus does not require a response from Speedway. In the event this paragraph is construed to require a response from Speedway, Speedway denies same.

COMPENSATORY AND STATUTORY MONETARY DAMAGES

163. Speedway adopts and incorporates by reference paragraphs 1 through 163 as though fully set forth herein.

164. Speedway denies that Plaintiff is entitled to monetary damages or relief of any type.

165. Speedway denies that Plaintiff is entitled to monetary damages or relief of any type.

166. Speedway is without knowledge as to the factual basis supporting Plaintiff's claim for monetary damages of any sort and therefore denies same. Speedway denies, however, that Plaintiff is entitled to any such damages or relief of any type.

PUNITIVE DAMAGES

167. Speedway adopts and incorporates by reference paragraphs 1 through 166 as though fully set forth herein.

168. Speedway is without knowledge as to the factual basis supporting Plaintiff's claim for punitive damages therefore denies same. Speedway denies, however, that Plaintiff is entitled to any such damages or relief of any type.

169. Paragraph 169 states Plaintiff's legal conclusions and thus does not require a response from Speedway. In the event this paragraph is construed to require a response from Speedway, Speedway denies same.

170. Paragraph 170 states Plaintiff's legal conclusions and thus does not require a response from Speedway. In the event this paragraph is construed to require a response from Speedway, Speedway denies same.

171. Denied as stated. Speedway admits that it reviews facilities under its ownership and control for compliance with the ADA as required by law.

172. Denied as stated. Speedway admits that it reviews facilities under its ownership and control for compliance with the ADA as required by law.

173. Denied as stated. Speedway admits that it reviews facilities under its ownership and control for compliance with the ADA as required by law.

174. Denied as stated. Speedway admits that it reviews facilities under its ownership and control for compliance with the ADA as required by law. Speedway further admits that where structural changes are required to a facility owned by Speedway in order to comply with the law, cost estimates are prepared for any such changes.

175. Denied as stated. Speedway admits that it reviews facilities under its ownership and control for compliance with the ADA as required by law.

176. Denied as stated. Speedway admits that it reviews internal policies for compliance with the ADA, as applicable.

177. Denied as stated. Speedway admits that it actively undertakes efforts to comply with the ADA.

178. Denied as stated. Speedway admits that it reviews facilities under its ownership and control for compliance with the ADA as required by law and takes necessary steps to ensure such compliance.

179. Denied as stated. Speedway admits external conditions, such as weather, may impact the structural design of its facilities over time.

180. Denied.

181. Paragraph 181 states Plaintiff's legal conclusions and thus does not require a response from Speedway. In the event this paragraph is construed to require a response from Speedway, Speedway denies same.

182. Denied.

183. Denied.

184. Denied.

185. Denied.

186. Denied.

187. Denied.

188. Denied.

189. Denied.

190. Denied.

191. Denied.

192. Denied.

193. Denied.

194. Denied.

195. Denied.

196. Denied.

197. Paragraph 197 states Plaintiff's legal conclusions and thus does not require a response from Speedway. In the event this paragraph is construed to require a response from Speedway, Speedway denies same.

INJUNCTIVE RELIEF

198. Paragraph 198 states Plaintiff's legal conclusions and thus does not require a response from Speedway. In the event this paragraph is construed to require a response from Speedway, Speedway denies same.

199. Speedway admits that Paragraph 199 contains a request for this Court to issue a permanent injunction. Speedway denies that Plaintiff is entitled to injunctive relief or relief of any other type.

200. Speedway admits that Paragraph 200 contains a request for this Court to issue a permanent injunction. Speedway denies that Plaintiff is entitled to injunctive relief or relief of any other type.

201. Speedway admits that Paragraph 201 contains a request for this Court to issue a permanent injunction. Speedway denies that Plaintiff is entitled to injunctive relief or relief of any other type.

202. Speedway admits that Paragraph 202 contains a request for this Court to issue a permanent injunction. Speedway denies that Plaintiff is entitled to injunctive relief or relief of any other type.

DECLARATORY RELIEF

203. Speedway admits that Paragraph 203 contains a request for this Court to issue declaratory relief. Speedway denies that Plaintiff is entitled to declaratory relief or relief of any other type.

PRAYER FOR RELIEF

Speedway further denies each and every prayer for relief set forth in the “WHEREFORE” clause following paragraph 203. Speedway further denies that Plaintiff is due relief of any type.

AFFIRMATIVE AND OTHER DEFENSES

In addition to the defenses and denials set forth above, Speedway asserts the following affirmative and other defenses. In pleading these defenses, Speedway does not admit that it bears the burden of proof, production, or persuasion on such defenses. Further, Speedway specifically reserves the right to raise any and all counterclaims and additional defenses, including affirmative defenses that may become available at any time in the course of this litigation.

1. Plaintiff's 2AC fails to state a claim upon which relief may be granted.
2. Plaintiff cannot state a claim under the ADA because any claimed violations are *de minimis* and non-actionable because they do not materially impair Plaintiff's use of the subject facility.
3. Plaintiff cannot state a claim under the ADA because he cannot establish that he was excluded from participation in Speedway's goods, services, facilities, or accommodations because of his disability.
4. Plaintiff's claim is barred, in whole or in part, because any action taken by Speedway with respect to Plaintiff was for legitimate, non-discriminatory business reasons unrelated to Plaintiff's alleged disability or asserted protected status.
5. Plaintiff's claim is barred, in whole or in part, because Speedway was willing to make reasonable accommodations to its policies, practices, and/or procedures to accommodate Plaintiff's alleged disability, but Plaintiff did not at any point request or seek a reasonable modification necessary to accommodate his disability.

6. Plaintiff lacks standing to seek injunctive or declaratory relief because he cannot show he is subject to a real or immediate threat of future discrimination by Speedway.

7. Plaintiff lacks standing to bring any claims for alleged barriers that he did not encounter or that did not impact his particular disability.

8. Speedway has made good faith efforts to comply with the ADA.

9. Plaintiff's claim may be barred, in whole or in part, by the applicable statutes of limitation and/or repose.

10. Plaintiff's claim may be barred, in whole or in part, by the doctrines of collateral estoppel, issue preclusion, and/or *res judicata*.

11. Plaintiff's claim may be barred, in whole or in part, by the equitable doctrines of laches, unclean hands, waiver, and/or estoppel.

12. Any alleged wrongful acts performed by Speedway do not subject Speedway to liability because Speedway provided or was willing to provide equivalent facilitation with respect to the barriers alleged in Plaintiff's Complaint.

WHEREFORE, for the reasons stated herein, Speedway prays that Plaintiff's Second Amended Complaint be dismissed in its entirety, with prejudice, and that judgment be entered in favor of Speedway; Speedway be awarded attorneys' fees, expenses, and costs of suit under applicable law; and for such other relief as the Court deems just and proper.

Dated this 29th day of June, 2020. Respectfully submitted,

/s/ Eric S. Boos
Eric S. Boos (*pro hac vice*)
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